

# SENATE BILL 920

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CF 2lr2536

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By: **Senators Raskin, Ferguson, Getty, McFadden, Miller, Ramirez, Robey,  
~~and Simonaire~~ **Simonaire, and Kittleman****

Introduced and read first time: February 10, 2012

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 20, 2012

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 19, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Ethics Online Disclosure Act of 2012**

3 FOR the purpose of requiring that certain ethics statements and reports be made  
4 available to the general public on the Internet; requiring that certain ethics  
5 statements and reports be submitted in an electronic format; altering certain  
6 procedures relating to the availability of ethics statements and reports; altering  
7 provisions relating to the review of certain ethics statements by the Joint  
8 Committee on Legislative Ethics; requiring the State Ethics Commission to  
9 adopt certain regulations; repealing a requirement that the Court of Appeals or  
10 its designee transmit copies of certain statements to the State Ethics  
11 Commission; providing that ~~counties, municipal corporations,~~ municipal  
12 corporations and boards of education are not required to post financial  
13 disclosure information on the Internet or to require that financial disclosure  
14 statements be filed electronically; requiring the governing body of a county,  
15 including Baltimore City, to post information from financial disclosure  
16 statements on the Internet and require certain local officials to file certain  
17 statements electronically; providing for the delayed implementation of certain  
18 provisions of this Act; and generally relating to the revision of the Maryland  
19 Public Ethics Law.

20 BY repealing and reenacting, with amendments,

21 Article – State Government

22 Section 15–512, 15–513(c), 15–602, 15–606, 15–805, and 15–813

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2009 Replacement Volume and 2011 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – State Government  
5 Section 15–513(b)  
6 Annotated Code of Maryland  
7 (2009 Replacement Volume and 2011 Supplement)

8 BY adding to  
9 Article – State Government  
10 Section 15–513(d)  
11 Annotated Code of Maryland  
12 (2009 Replacement Volume and 2011 Supplement)

13 BY repealing  
14 Article – State Government  
15 Section 15–610(c)  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2011 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – State Government**

21 15–512.

22 (a) (1) (i) Except as provided in subparagraph (ii) of this paragraph,  
23 the disqualification arising under § 15–511 of this subtitle may not be suspended if the  
24 conflict is direct and personal to:

- 25 1. the legislator;  
26 2. a member of the legislator’s immediate family; or  
27 3. the legislator’s employer.

28 (ii) This paragraph does not apply to a vote on:

- 29 1. the annual operating budget bill, in its entirety; or  
30 2. the annual capital budget bill, in its entirety.

31 (2) As to any other conflict, **AND SUBJECT TO A DETERMINATION BY**  
32 **THE JOINT ETHICS COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION**, the  
33 disqualification arising under § 15–511 of this subtitle is suspended if a legislator with

1 an apparent or presumed conflict files with the Joint Ethics Committee a sworn  
2 statement that describes the circumstances of the apparent or presumed conflict and  
3 the legislation or class of legislation to which it relates and asserts the legislator is  
4 able to vote and otherwise participate in action relating to the legislation, fairly,  
5 objectively, and in the public interest.

6 (b) (1) Whenever a legislator files a statement for the suspension of the  
7 disqualification, the Joint Ethics Committee [on its own motion may issue a  
8 statement] **SHALL MAKE A DETERMINATION** concerning the propriety of the  
9 legislator's participation in the particular legislative action[, with reference to the  
10 applicable ethical standards of this matter].

11 [(2) The suspension of the disqualification by the filing of the  
12 statement is subject to further action by the Joint Ethics Committee if the question of  
13 conflict comes before it as to the same circumstances and the same legislator.]

14 **(2) IF THE JOINT ETHICS COMMITTEE DETERMINES THAT THE**  
15 **LEGISLATOR'S PARTICIPATION IS IMPROPER:**

16 **(I) THE COMMITTEE SHALL NOTIFY THE LEGISLATOR OF**  
17 **THAT DETERMINATION IN WRITING, WITH REFERENCE TO THE APPLICABLE**  
18 **ETHICAL STANDARDS OF THE MATTER; AND**

19 **(II) THE LEGISLATOR SHALL BE DISQUALIFIED FROM**  
20 **PARTICIPATING IN LEGISLATIVE ACTION TO WHICH THE DETERMINATION**  
21 **APPLIES.**

22 (c) A member who is disqualified from participating in legislative action  
23 under subsection (a)(1) of this section, or who chooses to be excused from participating  
24 in legislative action on a bill or class of bills because of the appearance or presumption  
25 of a conflict, shall file in a timely manner a statement with the Joint Ethics Committee  
26 that describes the circumstances of the apparent or presumed conflict.

27 (d) [(1)] All statements filed under this section shall be:

28 **(1) FILED ELECTRONICALLY ON A FORM PRESCRIBED BY THE**  
29 **JOINT ETHICS COMMITTEE; AND**

30 **(2) MAINTAINED AS** a matter of public record **AS PRESCRIBED IN**  
31 **SUBSECTION (E) OF THIS SECTION.**

32 [(2) The Joint Ethics Committee shall develop procedures under which  
33 a statement filed under this section may be filed electronically without any additional  
34 cost to the legislator.]

1           **(E) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:**

2                           **(I) COMPILE THE STATEMENTS FILED UNDER THIS**  
3 **SECTION;**

4                           **(II) MAKE THE STATEMENTS AVAILABLE FOR PUBLIC**  
5 **INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND**

6                           **(III) AS TO STATEMENTS FILED ON OR AFTER JANUARY 1,**  
7 **2013, MAKE THE STATEMENTS FREELY AVAILABLE TO THE PUBLIC BY**  
8 **PROMPTLY POSTING THE INFORMATION ON THE INTERNET.**

9                   **(2) AS TO EACH STATEMENT, THE INTERNET POSTING SHALL**  
10 **INDICATE:**

11                           **(I) WHETHER THE JOINT ETHICS COMMITTEE HAS MADE A**  
12 **DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION;**

13                           **(II) THE DETERMINATION MADE, IF ANY; AND**

14                           **(III) THE DATE, IF ANY, ON WHICH THE DETERMINATION WAS**  
15 **MADE.**

16 15-513.

17           (b) A legislator shall report the following information in writing to the Joint  
18 Ethics Committee at the times and in the manner required by the Joint Ethics  
19 Committee:

20                   (1) if representing a person for compensation before a State or local  
21 government agency, except in a judicial proceeding or in a quasi-judicial proceeding,  
22 the name of the person represented, the services performed, and the consideration.  
23 The Joint Ethics Committee may adopt procedures to keep confidential the name of  
24 the person represented if that information is privileged or confidential pursuant to any  
25 provision of law governing proceedings before that State agency.

26                   (2) if representing a State or local government agency for  
27 compensation, the name of the agency, the services performed, and the consideration.

28                   (3) the name of any business enterprise subject to regulation by a  
29 State agency in which the legislator and a member of the legislator's immediate family  
30 (spouse and children living with the legislator), together or separately, have:

31                           (i) the lesser of:

1                   1.    10 percent or more of the capital stock of any  
2 corporation; or

3                   2.    capital stock of any corporation with a cumulative  
4 value of \$25,000 or more; and

5                   (ii) any interest in a partnership, limited liability partnership,  
6 or limited liability company.

7                   (4) details of any contractual relationship with the State or a State  
8 agency, or a local government in the State, including the subject matter and the  
9 consideration.

10                  (5) details of any transaction with the State, or a local government in  
11 the State, involving a monetary consideration.

12                  (c)    **[(1)]** All reports filed under this section shall be:

13                               **(1) FILED ELECTRONICALLY ON A FORM REQUIRED BY THE JOINT**  
14 **ETHICS COMMITTEE; AND**

15                               **(2) MAINTAINED AS** a matter of public record **AS REQUIRED IN**  
16 **SUBSECTION (D) OF THIS SECTION.**

17                               **[(2)** The Joint Ethics Committee shall develop procedures under which  
18 a report required under this section may be filed electronically without any additional  
19 cost to the legislator.]

20                  **(D) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:**

21                               **(1) COMPILE THE REPORTS FILED UNDER THIS SECTION;**

22                               **(2) MAKE THE REPORTS AVAILABLE FOR PUBLIC INSPECTION AS**  
23 **PROVIDED IN THE PUBLIC INFORMATION ACT; AND**

24                               **(3) AS TO REPORTS FILED ON OR AFTER JANUARY 1, 2013, MAKE**  
25 **THE REPORTS FREELY AVAILABLE TO THE PUBLIC BY PROMPTLY POSTING THE**  
26 **INFORMATION ON THE INTERNET.**

27 15-602.

28                  (a) Except as otherwise provided in this subtitle, a statement filed under §  
29 15-601, § 15-603, § 15-604, or § 15-605 of this subtitle shall:

30                               (1) be filed **ELECTRONICALLY** with the Ethics Commission;

- 1           (2)    be filed under oath;
- 2           (3)    be filed on or before April 30 of each year;
- 3           (4)    cover the calendar year immediately preceding the year of filing;
- 4 and
- 5           (5)    contain the information required in § 15–607 of this subtitle.

6           (b)    [Notwithstanding subsection (a)(1) of this section, a] **THE ETHICS**  
7 **COMMISSION SHALL PROMPTLY TRANSMIT TO THE JOINT ETHICS COMMITTEE**  
8 **THE TEXT OF A** statement filed by a member of the General Assembly [shall be filed  
9 in duplicate with the Joint Ethics Committee].

10          (c)    (1)    In addition to the statement filed under § 15–601 of this subtitle, a  
11 member of the General Assembly shall file **ELECTRONICALLY** a preliminary  
12 disclosure on or before the seventh day of the regular legislative session if there will be  
13 a substantial change in the statement covering the calendar year immediately  
14 preceding the year of filing, as compared to the next preceding calendar year.

15               (2)    A member of the General Assembly whose statement under  
16 § 15–601 of this subtitle will not contain a substantial change is not required to file a  
17 preliminary disclosure under paragraph (1) of this subsection.

18               (3)    The Joint Ethics Committee shall:

19                     (i)    prescribe the form of a preliminary disclosure under this  
20 subsection; and

21                     (ii)   determine which aspects of financial disclosure are subject  
22 to this subsection.

23               (4)    A preliminary disclosure shall be filed [and], maintained, and  
24 [may be disclosed,] **POSTED ON THE INTERNET** in the same manner prescribed for a  
25 statement filed under § 15–601 of this subtitle.

26           (d)    (1)    The Ethics Commission shall develop procedures [under which]  
27 **FOR THE ELECTRONIC FILING OF** a statement under this subtitle [may be filed  
28 electronically and without additional cost to the individual who files the statement].

29                     (2)    (i)    To comply with the requirement of paragraph (1) of this  
30 subsection, the Ethics Commission may adopt regulations to modify the format for  
31 disclosure of information required under § 15–607 of this subtitle.

1                   **(II) THE ETHICS COMMISSION SHALL ADOPT PROCEDURES**  
2 **TO ALLOW THE ETHICS COMMISSION TO GRANT EXCEPTIONS TO THE**  
3 **REQUIREMENT THAT ALL STATEMENTS BE FILED ELECTRONICALLY.**

4                   **[(ii)] (III)** The regulations adopted under this paragraph shall  
5 be consistent with the intent of this title.

6           (e) (1) If the financial disclosure statement filed electronically under  
7 subsection (d) of this section is required to be made under oath or affirmation, the oath  
8 or affirmation shall be made by an electronic signature that:

9                   (i) is in the financial disclosure statement or attached to and  
10 made part of the financial disclosure statement; and

11                   (ii) is made expressly under the penalties for perjury.

12           (2) An electronic signature made under paragraph (1) of this  
13 subsection subjects the individual making it to the penalties for perjury to the same  
14 extent as an oath or affirmation made before an individual authorized to administer  
15 oaths.

16 15-606.

17           (a) (1) The Ethics Commission [and the Joint Ethics Committee] shall:

18                   **(I)** maintain the statements submitted under this subtitle [and,  
19 during normal office hours,];

20                   **(II)** make the statements available to the public for examination  
21 and copying;

22                   **(III) BEGINNING JULY 1, 2013, MAKE FREELY AVAILABLE TO**  
23 **THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET,**  
24 **THE STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, BY:**

25                               **1. A MEMBER OR MEMBER-ELECT OF THE GENERAL**  
26 **ASSEMBLY;**

27                               **2. A STATE OFFICIAL OR STATE OFFICIAL-ELECT,**  
28 **EXCEPT A STATE OFFICIAL OR STATE OFFICIAL-ELECT WHO FILES A**  
29 **STATEMENT REQUIRED BY § 15-601(B) OR § 15-610 OF THIS SUBTITLE;**

30                               **3. THE HEAD OF EACH CABINET-LEVEL AGENCY OF**  
31 **THE EXECUTIVE BRANCH; AND**

1                                   **4. THE HEAD OF EACH INDEPENDENT AGENCY OF**  
 2 **THE EXECUTIVE BRANCH THAT THE ETHICS COMMISSION DETERMINES IS**  
 3 **COMPARABLE TO A CABINET-LEVEL AGENCY; AND**

4                                   **(IV) BEGINNING JULY 1, 2015, MAKE FREELY AVAILABLE TO**  
 5 **THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET, ALL**  
 6 **STATEMENTS FILED ON OR AFTER JANUARY 1, 2015.**

7                                   (2) The Ethics Commission [and the Joint Ethics Committee] may  
 8 charge a reasonable fee and adopt administrative procedures for the examination and  
 9 copying of a statement.

10                                  **[(b) (1) The Ethics Commission and the Joint Ethics Committee shall**  
 11 **maintain a record of:**

12                                   (i) the name and home address of each individual who  
 13 examines or copies a statement under this section; and

14                                   (ii) the name of the individual whose statement was examined  
 15 or copied.

16                                   (2) On the request of the individual whose statement was examined or  
 17 copied, the Ethics Commission or the Joint Ethics Committee shall forward a copy of  
 18 that record to that individual.]

19                                  **(B) THE JOINT ETHICS COMMITTEE AND THE DEPARTMENT OF**  
 20 **LEGISLATIVE SERVICES SHALL COMPILE AND MAINTAIN THE STATEMENTS**  
 21 **FILED BY MEMBERS OF THE GENERAL ASSEMBLY AND POST THE INFORMATION**  
 22 **ON THE INTERNET IN THE SAME MANNER AS REPORTS AND STATEMENTS ARE**  
 23 **FILED UNDER §§ 15-512 AND 15-513 OF THIS TITLE.**

24 15-610.

25                                  **[(c) Within 30 days after receiving a statement under this section, the Court**  
 26 **of Appeals or its designee shall transmit a copy of the statement to the Ethics**  
 27 **Commission.]**

28 15-805.

29                                  (a) (1) In this section the following words have the meanings indicated.

30                                   (2) “Elected local official” includes:

31                                   (i) any individual who holds an elective office of a county or  
 32 municipal corporation; and

1 (ii) a candidate for elective office as a local official of a county or  
2 municipal corporation.

3 (3) "Local official" includes an individual, designated as a local official,  
4 whose position is funded wholly or partly by the State.

5 (b) (1) Except as provided in paragraph (2) of this subsection and  
6 subsection (c) of this section, the financial disclosure provisions enacted by a county or  
7 municipal corporation under § 15–803 of this subtitle shall be similar to the provisions  
8 of Subtitle 6 of this title, but shall be modified to the extent necessary to make the  
9 provisions relevant to the prevention of conflicts of interest in that jurisdiction.

10 (2) The financial disclosure provisions for elected local officials enacted  
11 by a county or municipal corporation under § 15–803 of this subtitle shall be  
12 equivalent to or exceed the requirements of Subtitle 6 of this title, but shall be  
13 modified to the extent necessary to make the provisions relevant to the prevention of  
14 conflicts of interest in that jurisdiction.

15 (c) (1) This subtitle does not compel the governing body of a county or  
16 municipal corporation to require a local official to file a financial disclosure statement  
17 except:

18 (i) when the personal interest of the local official will present a  
19 potential conflict with the public interest in connection with an anticipated public  
20 action of the local official; and

21 (ii) at least annually to report on gifts received by the local  
22 official.

23 (2) The provisions shall require:

24 (i) that a statement filed under paragraph (1)(i) of this  
25 subsection be filed sufficiently in advance of the action to provide adequate disclosure  
26 to the public; and

27 (ii) a statement filed by an elected local official under subsection  
28 (b)(2) of this section to be filed on or before April 30 of each year.

29 **(3) THE GOVERNING BODY OF A ~~COUNTY OR~~ MUNICIPAL**  
30 **CORPORATION IS NOT REQUIRED TO:**

31 **(I) POST INFORMATION FROM FINANCIAL DISCLOSURE**  
32 **STATEMENTS ON THE INTERNET; OR**

33 **(II) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL**  
34 **OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.**

1                   **(4) THE GOVERNING BODY OF A COUNTY, INCLUDING BALTIMORE**  
2 **CITY, SHALL:**

3                   **(I) POST INFORMATION FROM FINANCIAL DISCLOSURE**  
4 **STATEMENTS ON THE INTERNET; AND**

5                   **(II) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL**  
6 **OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.**

7           (d) Financial disclosure provisions applicable to a candidate shall be  
8 consistent with the provisions applicable to an incumbent holding the office involved.

9 15–813.

10           (a) (1) In accordance with this section, a school board:

11                   (i) may adopt financial disclosure regulations applicable to  
12 officials and employees of that school system; and

13                   (ii) shall adopt financial disclosure regulations applicable to  
14 members of the school board.

15           (2) (i) The regulations adopted under paragraph (1)(i) of this  
16 subsection shall apply to:

17                   1. the superintendent of that school system; and

18                   2. subject to subparagraph (iii) of this paragraph, those  
19 other officials and employees of that school system designated by the school board.

20                   (ii) The regulations adopted under paragraph (1)(ii) of this  
21 subsection shall apply to:

22                   1. each member of the school board; and

23                   2. if the school board is an elected board under Title 3,  
24 Subtitle 1, Part III of the Education Article, each candidate for election to the school  
25 board.

26                   (iii) The regulations may not apply to a classroom teacher unless  
27 the teacher has additional duties, not normally expected of classroom teachers, that  
28 cause the teacher for other reasons to be covered by the financial disclosure  
29 regulations.

1 (b) (1) Except as provided in subsection (c) of this section, the regulations  
2 adopted under subsection (a)(1)(i) of this section shall be similar to the provisions of  
3 Subtitle 6 of this title, but may be modified to the extent necessary to make the  
4 regulations relevant to the prevention of conflicts of interest in that school system.

5 (2) The regulations adopted under subsection (a)(1)(ii) of this section  
6 shall be equivalent to or exceed the requirements of Subtitle 6 of this title, but may be  
7 modified to the extent necessary to make the regulations relevant to the prevention of  
8 conflicts of interest in that school system.

9 (c) (1) (i) This paragraph does not compel a school board to require an  
10 individual to file a financial disclosure statement except:

11 1. when the personal interest of the individual will  
12 present a potential conflict with the public interest in connection with an anticipated  
13 public action of the individual; and

14 2. at least annually to report on gifts received by the  
15 individual.

16 (ii) The regulations adopted under subsection (a)(1)(i) of this  
17 section shall require that a statement filed under subparagraph (i)1 of this paragraph  
18 be filed sufficiently in advance of the public action to provide adequate disclosure to  
19 the public.

20 (2) The regulations adopted under subsection (a)(1)(ii) of this section  
21 shall require that a statement filed by a member of a board of education be filed on or  
22 before April 30 of each year.

23 **(3) A SCHOOL BOARD IS NOT REQUIRED TO:**

24 **(I) POST INFORMATION FROM FINANCIAL DISCLOSURE**  
25 **STATEMENTS ON THE INTERNET; OR**

26 **(II) REQUIRE A MEMBER OF THE SCHOOL BOARD OR A**  
27 **CANDIDATE FOR ELECTION TO THE SCHOOL BOARD TO FILE FINANCIAL**  
28 **DISCLOSURE STATEMENTS ELECTRONICALLY.**

29 (d) Except as provided for a member of a board of education under this Part  
30 II, unless a school board adopts and maintains financial disclosure regulations under  
31 this subtitle, the provisions enacted by the county under § 15–805 of this subtitle shall  
32 apply to:

33 (1) the superintendent of that school system; and

1                   (2)    the other officials and employees of the school system that the  
2 governing body of that county designates.

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.